

**REMARKS:**

**REMARKS REGARDING SPECIFICATION AMENDMENTS:**

The above noted amendments to the specification have been made in response to the Examiner's objections and to further correct typographical and other readily apparent errors encountered during a review of the specification. Additionally, the specification has been amended to add reference numerals 14a and 14b, which represent the unlocked position and locked position respectively. This amendment solely addresses the Examiner's objection to Applicants' drawings, which is discussed in more detail below.

Applicants submit that no new matter is introduced by any of the proposed amendments to the specification. Support for the above amendments to the specification can be found in the original specification as filed.

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**REMARKS REGARDING CLAIM AMENDMENTS:**

The above noted amendments to the claims have been made so that the scope and language of the claims is more precise and clear in defining what the Applicants consider to be the invention.

Specifically, claim 1 has been rejected for insufficient antecedent basis for pushing down "the other end of the cable." Applicants have amended claim 1 to recite "pushing down the cable in the cable sheath." Support for this amendment is found within Applicants' original specification, specifically in paragraph 20, "[w]hen the cable 4 is pushed down in the cable sheath." Claim 1 has also been rejected on the basis that it is unclear as to whether "a cable seat" in line 11 is the same as the one recited in line 7. Applicants have amended this claim to recite "the cable seat" in line 11, which more clearly refers to "a cable seat" in line 7. Claim 1 has been rejected for insufficient antecedent basis for the limitation "the bolt" in line 13. This has been amended to read "the rotary bolt," which more clearly refers to "a rotary bolt" in line 9.

The Examiner has rejected claims 4, 5, 6, 7, and 8 because the limitation "the operating device" lacks sufficient antecedent basis. Applicants' have amended these claims to recite "the

element” which has antecedent basis in claim 1, line 9 “an element for acting upon the end of the cable.”

The Examiner has rejected claim 10 stating that it is unclear as to whether the limitation “the actuating element” in line 2 is the same as the one recited in claim 9, line 5. Applicants have amended claim 10 to recite “the element” which finds antecedent basis in claim 9, line 9 “an element for acting upon the end of the cable.”

The above addressed amendments have been made to respond to the Examiner’s §112 rejections, not to narrow the scope of protection of these claims in any manner.

Claim 9 has also been amended so as to incorporate the language of the claims from which it depends. This action is being taken so as to overcome the objection made by the Examiner because of its dependent form. No new matter has been added to this claim because all such limitations are already recited by reference in the claim. 35 U.S.C. § 112, 3<sup>rd</sup> and 4<sup>th</sup> paragraph. Claim 9 has also been amended to recite that “a mechanical actuating element is designed to impart to the arm a torsional movement about the shaft between the locked position and the unlocked position.” Support for this amendment can be found in the original specification at paragraph 16, “A mechanical actuating element (not shown), such as a central locking motor, is designed to impart a torsional movement to the reversing arm 12 about the shaft 11 between a locked position and an unlocked position” and claims 1 and 8 from which claim originally depended. Claim 10, which depends from claim 9, has been amended to incorporate the above accordingly.

The claims and amended claims are submitted as being clearly distinct and patentable over the art of record and therefore Applicants respectfully request their entry and allowance by the Examiner.

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REMARKS REGARDING DRAWING AMENDMENTS:

Replacement drawings for Figs. 1 and 2 are included with the filing of this response. Specifically, in Figs. 1 and 2 reference numerals 14a and 14b have been added to more clearly reflect that both the unlocked position and locked position are shown within the drawings. As

found in Applicants' amended specification paragraph 12 the "operating device 9 is designed, when shifted by the vehicle lock 1 from a locked position 14b to an unlocked position 14a, to position the free cable end 4a or the cable sheath 3 so that the free cable end 4a in the unlocked position 14a is directed for engagement with a cable seat 10." As shown in Fig. 1, the operating device 9 is positioning the free cable end 4a from the locked position 14b to the unlocked position 14a.

In Fig. 2 and described in amended paragraph 18 "[w]hen the reversing arm 12 rotates between the unlocked position 14a and the locked position 14b, the actuating element 13 causes the free cable end 4a pointing towards the lock casing 2 to be displaced in the direction of the shaft 11." Furthermore, in amended paragraph 21 "[a]s the actuating element 13 is moved about the shaft 11 of the reversing arm 12 into the locked position 14b, the free end 4a of the cable pointing towards the lock casing 2 is deflected in the direction of the shaft 11 . . . Due to the axial deflection, the cable end 4a in the locked position 14b is oriented in such a way that the cable end 4a is directed to the side of the cable seat 10 when it is forced out of that end of the cable sheath 3 fixed in the lock casing 2." Thus as shown in Fig. 2, as the actuating element 13 rotates about the shaft 11, the cable 4 will move from the unlocked position 14a to the locked position 14b.

Thus in short, by making the above amendments to Figs. 1 and 2, Applicants have more clearly represented what was already shown within the original figures; that is, the cable end is directed for engagement with the cable seat in the unlocked position and is directed to the side of the cable seat in the locked position. Thus Applicants' believe that this objection by the Examiner has been obviated.

The Examiner has also objected to the drawings because the "mechanical transmission system" is allegedly not shown within the drawings. Applicants respectfully disagree with the Examiner. As stated in original claim 8, Applicants device includes "a mechanical transmission system between the operating device and the cable end." This "mechanical transmission system" is further defined by original claim 9 as "the mechanical transmission system further comprises a reversing arm articulated about a shaft." Thus in short, the mechanical transmission system includes a reversing arm, shown in Fig. 2 as reference numeral 12, and a shaft, shown in Fig. 2 as reference numeral 11. Furthermore, if one examines Fig. 2 the "mechanical transmission system," being further defined as the reversing arm and the shaft, is clearly "between" the

element 13 and the free cable end 4a pointing towards the lock casing. Applicants believe that the Examiner's objection is in error and that this more thorough explanation should clear up any discrepancies.

**IN RESPONSE TO THE OFFICE ACTION:**

**REJECTIONS UNDER 35 U.S.C. § 103:**

Claims 1 and 5-7 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 3,905,624 to Fujita in view of U.S. Patent 6,070,921 to Valasin. Applicants request that the Examiner reconsider and withdraw the above rejection of the claims in view of the following.

A determination under 35 U.S.C. § 103 is whether the claimed invention as a whole would have been obvious to a person of ordinary skill in the art at the time the invention was made. *In re Mayne*, 104 F.3d 1339, 1341, 41 USPQ 2d 1451, 1453 (Fed. Cir. 1997). An obviousness determination is based on underlying factual inquiries including: (1) the scope and content of the prior art; (2) the level of ordinary skill in the art; (3) the differences between the claimed invention and the prior art; and (4) objective evidence of nonobviousness. *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966), see also *Robotic Vision Sys., Inc. v. View Eng'g Inc.*, 189 F.3d 1370, 1376, 51 USPQ 2d 1948, 1953 (Fed. Cir. 1999).

In line with this standard, case law provides that "the consistent criterion for determination of obviousness is whether the prior art would have suggested to one of ordinary skill in the art that this process should be carried out and would have a reasonable likelihood of success, viewed in the light of the prior art." *In re Dow Chem.*, 837 F.2d 469, 473, 5 USPQ 2d 1529, 1531 (Fed. Cir. 1988). The first requirement is that a showing of a suggestion, teaching, or motivation to combine the prior art references is an "essential evidentiary component of an obviousness holding." *C.R. Bard, Inc. v. M3 Sys. Inc.*, 157 F.3d 1340, 1352, 48 USPQ 2d 1225, 1232 (Fed. Cir. 1998). This showing must be clear and particular, and broad conclusory statements about the teaching of multiple references, standing alone, are not "evidence." *In re Dembiczaik*, 175 F.3d 994, 1000, 50 USPQ2d 1614, 1617. The second requirement is that the ultimate determination of obviousness must be based on a reasonable expectation of success. *In re O'Farrell*, 853 F.2d 894, 903-904, 7 USPQ 2d 1673, 1681 (Fed. Cir. 1988); see also *In re Longi*, 759 F.2d 887, 897, 225 USPQ 645, 651-52 (Fed. Cir. 1985). The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification

obvious unless the prior art suggested the desirability of the modification. *In re Fritch*, 972 F.2d 1260, 1265, 23 USPQ 2d 1780, 1783–84 (Fed. Cir. 1992).

The Examiner bears the burden of establishing a prima facie case of obviousness. *In re Deuel*, 51 F.3d 1552, 1557, 34 USPQ 2d 1210, 1214 (Fed. Cir. 1995). The burden to rebut a rejection of obviousness does not arise until a prima facie case has been established. *In re Rijckaert*, 9 F.3d 1531, 1532, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993). Only if the burden of establishing a prima facie case is met does the burden of coming forward with rebuttal argument or evidence shift to the applicant. *In re Deuel*, 51 F.3d 1552, 1553, 34 USPQ 2d 1210, 1214 (Fed. Cir. 1995), see also *Ex parte Obukowicz*, 27 USPQ 2d 1063, 1065 (B.P.A.I. 1992).

As positively recited in Applicants amended claim 1, “the cable end is designed, by pushing down the cable in the cable sheath, to be brought into engagement with the cable seat for actuation of the catch that is to be disengaged from the rotary bolt, thereby releasing the rotary bolt, and wherein the cable end is directed for engagement with the cable seat in the unlocked position and is directed to the side of the cable seat in the locked position.” These limitations are not disclosed or suggested by either the ‘624 reference or the ‘921 reference.

The operation of the hood latch device in the ‘624 reference is described in column 4, lines 22-68. However, nowhere does it mention or suggest that the wire 20 contributes to this function and thus it cannot be said that the ‘624 wire actuates the catch which then releases the rotary bolt as Applicants have claimed. Furthermore the only direction of movement described for the ‘624 wire is found in column 5, lines 1-7 and Fig. 3 which describes that the wire 20 is pulled to the right. “[P]ulled to the right” does not disclose or suggest “pushing down the cable in the cable sheath” as Applicants have described and claimed. In fact these are counterintuitive to each other. Additionally, it is described that a third engaging portion 15c of a second latch member 15 can engage a catch portion 13e of a first latch member 13 even after the wire 20 is released, see col. 5 line 22. Again, nowhere in the ‘624 reference is it disclosed or suggested that the wire 20 is pushed since the mechanism is either pulled or released.

Furthermore, the ‘624 reference does not disclose or suggest that the cable end is directed to the side of the cable seat in the locked position as Applicants have claimed. An examination of Figs. 1 and 3 do not show this limitation nor is this limitation described in the specification. Applicants claimed invention is designed in this manner so that when the cable is acted upon by a

door handle, for example, and the door handle then pushes down the cable, the cable is directed to the side of the cable seat when it is forced out of the cable sheath. By directing it to the side of the cable seat, the cable seat is not actuated and the rotary bolt remains locked. This limitation is not disclosed or suggested anywhere within the '624 reference.

Given the above, Applicants request that the rejection of claims 1 and 5-7 under 35 U.S.C. § 103(a) be reconsidered and withdrawn and that the Examiner indicate the allowance of the claims in the next paper from the Office.

Furthermore, if an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore Applicants request that the Examiner reconsider the 35 U.S.C. § 103(a) rejection of claims 2-4 and 8 as being unpatentable over U.S. Patent 3,905,624 to Fujita in view of U.S. Patent 6,070,921 to Valasin and further in view of U.S. Patent 4,691,584 and issue an allowance of these claims in the next office action.

ALLOWABLE SUBJECT MATTER:

Applicants acknowledge and appreciate the Examiner's indication of allowable subject matter in claims 9 and 10. Therefore, Applicants have amended claim 9 in response to the Examiner's suggestion and have incorporated all of the limitations of the base claim and intervening claims, as well as addressed the § 112 rejections, the amendments recited in detail above and incorporated herein. Applicants believe that claim 9 is now in condition for allowance. Furthermore, claim 10 depends from independent claim 9 and has also been amended to address the § 112 rejections described in more detail above. Thus claim 10 is also believed to be in condition for allowance, as are the new claims that have been added, the subject matter of which was originally recited in claims 2-8.

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The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 08-3038, referencing Order No. 07574.0102.PCUS00.

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner should directly contact the undersigned by phone to further the discussion.

Respectfully submitted,



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